

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES

**Thursday, November 29, 2007
Room 206 Town Hall**

Chairman Hillman called the meeting to order at 7:20 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Alan Armstrong, Ellen Kirby, Craig Flaherty, and Pete Kenyon.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

Election of Officers

Ms. Cameron nominated Mr. Hillman for Chairman. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-56-2007, Danielle Cambridge, 19 Renshaw Road, proposing demolition of existing residence and construction of new residence within the upland review area.

The Commission reviewed the draft approval. Mr. Hillman made a motion to approve the application. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-71-2007, Karl and Ellen Nilsen, 22 Point O'Woods Road South, proposing demolition of existing residence and new residence and related construction in the upland review area.

Attorney Amy Boland represented the applicant. She said they are proposing to restore a portion of the open space area and conservation easement within the upland review area.

Todd Ritchie said they submitted the drainage calculations requested by the Commission. He said they based the calculations on the applicant's impervious surface and did not take credit for the removal of pavement on the adjacent property.

Mr. Hillman said the application appears to improve and enhance the wetland.

Mr. Armstrong made a motion to approve the application. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-72-2007, David and Lucy Ball, 149 Brookside Road, proposing an addition to an existing residence in the upland review area.

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Greg Liberman, Stearns & Wheeler represented the applicant. He said the property bisects a wetland that is primarily a lawn in the front yard. He said they are proposing 1600 square feet of work within 50 feet of the wetland. He said there will be 1400 square feet on impact involved in the wetland restoration. He said there will be a net increase of 3400 square feet of impervious surface.

Mr. Flaherty asked for a summary of the drainage calculations. Mr. Ritchie said they would provide it. Mr. Flaherty asked if there were soil tests in the area of the proposed infiltrators. Mr. Ritchie said no and they will provide test data.

The Commission continued the application until December 5.

Public Hearing

Mr. Hillman read the first hearing item:

EPC #50-2007, PL Partnership, LLC, 3 Purdy Lane, proposing to subdivide the existing 2.5+/- acre property and construct four residential lots and two open space lots within the upland review area adjacent to Holly Pond.

Attorney Terry Coates represented the applicant. He introduced Mr. Tim DeBartolomeo, P.E.

Mr. DeBartolomeo said they correlated the tide elevation readings with the tide gauge in Bridgeport. He said they are proposing to elevate two garage floors to elevation 8.0.

Mr. Coates said there was a question about the structural integrity of the sea wall. Mr. Bartolomeo submitted a letter regarding the wall stability. He said the wall is old and needs some repairs. Mr. Coates said they are willing to repair the wall as a condition of the permit. Mr. Hillman asked how the wall was inspected. Mr. DeBartolomeo said it was inspected visually at low tide.

Mr. Coates asked Mr. DeBartolomeo to comment on the stability of the subsoil and its ability to sustain a building. Mr. DeBartolomeo said the test holes showed free draining granular material. He said it was stable material suitable for construction.

Mr. Coates said that Mr. Keillor was not able to attend but had sent a letter on November 21 responding to the Land-Tech Consultants comments. He referred to the property line profile section view, relative to the Briganti property. He said the wall proposed along their property line requires a maximum of 18 inches of fill.

Mr. Coates referred to the cross section plan and said the fill on the property is typically 2-3 feet and 7 feet in one location. He said the biofiltration basin provides storage for the 2, 5, 10, 25, 50, and 100 year storms and will not overtop. He said if the basin were to fail the water would cross the applicant's property.

Mr. Coates asked William Kenny to address the comments about the combination berm and swale having a slope of 1:1. Mr. Kenny said they decided to eliminate the berm and just provide a swale. He said the swale would be sized according to DEP guidelines. Mr. Flaherty asked if they would plant salt tolerant plants. Mr. Kenny said they would be salt tolerant but not salt water plants. Mr.

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Flaherty asked if the property as it exists would meet the 2004 CT DEP manual's standards for water quality. Mr. Kenny said there are no current controls. He said they are proposing to replace vegetation lost. He said they are removing 21 trees and planting a substantial number of replacement trees in the regulated area and the upland. He said a significant number of the trees to be removed are Norway Maples.

Mr. Coates said Mr. Kenny provided a summary of the plantings and the wildlife use of the property.

Mr. Coates asked Mr. Kenny to state whether, in his opinion, the project would result in a substantial or adverse impact on regulated areas. Mr. Kenny said no.

Mr. Hillman said the U.S. E.P.A. has designated Holly Pond as an impaired waterway. He said Holly Pond and its condition are critical to EPC.

Mr. Hillman asked Mr. Kenny if, in his opinion, there will be a likely significant adverse impact on Holly Pond. Mr. Kenny said there will be no pre-construction impact from installing the controls.

Mr. Hillman asked if there will be a significant adverse impact on Holly Pond during construction.

Mr. Kenny said no.

Mr. Hillman asked is there will be a significant adverse impact on Holly Pond post-construction.

Mr. Kenny said there will be an improvement over existing conditions. He said they are reducing lawn area and Canada Goose habitat which will result in less contaminants introduced to Holly Pond. He said they are adding a buffer to the pond edge.

Mr. Hillman asked if there would be a significant adverse impact from activities outside of the 100 foot upland review area.

Mr. Kenny said no negative impact.

Ms. Kirby asked what would happen if the swale were overtopped. Mr. Kenny said the swale is designed to deal with small storms with greater pollutant load.

Mr. Hillman asked Mr. Ryder and Mr. Oley to comment.

Mr. Hillman asked Mr. Ryder if, in his opinion, there would be a significant adverse impact on the regulated area. Mr. Ryder said there is a potential for impact during construction. He said the applicant has accepted all of their suggestions and have minimized the potential impact. He said the disturbed areas of the site should be stabilized immediately and not within 30 days, as suggested by the DEP. Mr. Flaherty asked if the biofiltration swale should be constructed first. Mr. Ryder said yes, in his opinion.

Mr. Flaherty asked if having a diligent and independent site monitor is warranted on this site. Mr. Ryder said yes.

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Mr. Hillman asked if, in his opinion, there would be a significant impact post-construction. Mr. Ryder said the controls would improve stormwater quality over existing conditions. He said he would recommend limiting fertilizer use on the property. He said the level swale would reduce Nitrogen.

Mr. Kenny said he would propose that the lawn and ornamental areas be maintained in accordance with N.O.F.A.

Mr. Hillman asked Mr. Oley if, in his opinion, there would be an impact on the regulated area during construction. He said he would have a concern during a catastrophic storm. He said it would be important to stabilize disturbed areas immediately.

Mr. Hillman asked if there would be an impact post-construction. Mr. Oley said there would be no impact if the biofiltration system is maintained.

Mr. Jacobson asked if he considered a biofiltration swale a better alternative. Mr. Oley said yes, because it would require less maintenance. He said there is not a large drainage area to the basin, which gives him a level of comfort.

Ms. Cameron asked if the applicant considered a biofiltration swale. Mr. Coates said they considered it but they felt it might have more impact on the trees along the property line.

Mr. Flaherty asked Mr. Oley his opinion for what frequency of storm the E&S controls should be designed. Mr. Oley said there is no specific design storm but a 25 year storm is typical.

Mr. Hillman opened the hearing for public comment.

Chris Noe, Old Kings Highway South, said there are four homes proposed which rely on views of Holly Pond. He said the applicant should be allowed to remove debris.

David Winston, Stamford, read a statement. He described Cove Island Pond and Holly Pond as important bird areas and that the tree canopy provides significant bird nesting areas for migratory birds along the east coast flyway.

Warren Matthews, Oakland Terrace, said the neighbors are not opposed to development. He said they are opposed to specific aspects of the project, including the quantity of fill and erosion risks. He said they are concerned about the sea wall. He said they believe there is some level of development that is more appropriate.

Mr. Brigantine asked Mr. Oley about the road levels interfering with runoff flows. Mr. Oley said the road will not be an impediment to flow.

Aimee North said the use of the open space is not consistent with P&Z regulations. She said it should not be overlooked that the area is a floodplain. Mr. Flaherty asked if they would offer a better alternative. Ms. North said they could improve the existing homes.

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Mr. Hillman asked Mr. Coates for an estimate of the amount of fill to be brought to the site. Mr. Coates consulted with his engineer and said approximately 5000 cubic yards. Mr. Hillman asked Mr. Oley and Mr. Ryder if that changed their opinion of the impact. They said no.

Mr. Kenyon questioned the open space regulations and said the construction of a building does not seem to fit the regulations. Mr. Coates said it may or may not be acceptable to P&Z. Mr. Kenyon said the EPC also has jurisdiction. He said the gazebo in close proximity to the restaurant may be used for commercial purposes. Mr. Coates said the Zoning would prohibit that use.

Mr. Kenyon asked Mr. Kenny about the cost of the remediation and the time frame for the implementation. Mr. Kenny said he did not have a cost estimate at this time and the project would take three to five years.

Mr. Mazzone questioned the tide data and the October 26 date of the highest tide of the year. He asked about the effect on Holly Pond from water coming onto the property. He said the Phragmites will not all be removed.

Mr. Kenny said the property is lawn and water will continue to do what it does now except on the way out it will be improved in quality. He said the type of Phragmites control proposed is done all the time.

Mr. Kenyon made a motion to close the public hearing. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next hearing item:

EPC-53-2007, Wee Burn Country Club, 410 Hollow Tree Ridge Road, proposing golf course improvements and mitigation measures to address a wetland violation.

Attorney Edward O'Hanlan represented the applicant. He said they submitted revised plans with changes reflecting the Commission's concerns.

Mr. Hillman asked about the recommendations in the Martinez-Couch letter. Mr. O'Hanlan said they would oppose the suggestion to raise the cart path eight inches as unnecessary. He said the cart path is in a different sub-watershed.

Mr. Couch discussed the four items in his letter. Mr. Hillman asked him if the berm as proposed would have an impact on the Bumgardners. Mr. Couch said he was neutral on the berm.

Bruce Hill spoke on behalf of Mr. and Mrs. Bumgardner. He said there is no bright line between an analysis of wetland impacts and flood control. Mr. O'Hanlan said the EPC has no authority to put flood controls on private property. He said the berm Mr. Couch proposes is for flood control not wetland enhancement. He said a berm could be placed on the property in a different location at the Bumgardners expense.

Barry Hammons said the cart path proposed by Mr. Couch has nothing to do with the berm proposed by the applicant. He said he was neutral on the berm proposed by Wee Burn and the berm

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proposed by Mr. Couch would have to be analyzed. He said the cart berm proposed by Mr. Couch would act as a berm and the swale would act like a detention basin and interrupt flow to the meadow. He said the sump pumps would not work.

Mr. Hillman asked Mr. Hammons if, in his opinion, the plans fully address the violation. Mr. Hammons said yes.

Attorney Bernard spoke on behalf of Mr. and Mrs. van der Kieft. He said the plan keeps evolving. He said there are two experts who are neutral and two in favor. He submitted photographs showing water on the van der Kieft property. He said Mr. Ryder concluded that the berm is a necessary component of the remediation plan.

Ms. Cameron said there does not appear to be a water flows at a significant rate across the van der Kieft property.

Mr. van der Kieft, 75 Hanson Road said water comes through the saddle. Ms. Cameron said that a number of properties in town are seeing more standing water in wetland areas.

Mr. Bernard requested that L.B.G. re-examine the height of the berm.

Mr. Brunner said he is opposed to the project if closing the hearing means the subject is closed. Mr. Hillman said that closing the EPC public hearing does not mean the issue of the sand in the pond cannot be pursued privately.

Mr. O'Hanlan said that Mr. Beckman did not agree that the berm was necessary but that they have agreed to disagree with Mr. van der Kieft's expert and are willing to construct the berm anyway. He said that Wee Burn is willing to be a partner in of flood discussions with the town in the future. He said that Wee Burn did not cause the flooding but it is difficult to prove a negative.

Mr. Bumgardner said that Wee Burn was not cooperative during the process.

Mr. Hillman asked if there were any further comments from the applicant or the public. Seeing none, he asked for a motion to close the public hearing.

Ms. Cameron made a motion to close the public hearing. Mr. Flaherty seconded the motion and it passed unanimously.

Ms. Kirby made a motion to adjourn. Mr. Flaherty seconded the motion and it passed unanimously. The meeting was adjourned at 11:35 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer